

Attorney Docket No. 000337

**REMARKS**

No claims have been amended, added, or canceled by this response. Therefore, claims 1-4, 6-9, 11-15, 17-20, 22-27, 29, 30, and 32 are pending in this application.

In a May 2, 2006 Final Office Action, the Examiner rejected claims 1-4, 6-9, 11-15, 17-20, 22-27, 29, 30, and 32 under 35 USC §103(a) as being unpatentable and obvious over United States Patent Number 6,480,472 ("Jou") in view of United States Patent Number 6,335,990 ("Chen"). The applicants respectfully traverse the rejection.

However, the applicants respectfully direct the Examiner to 35 U.S.C. § 103(c) of the United States Patent Laws. Section 103(c)(1) states:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In this case, Jou qualifies as prior art only under 35 U.S.C. § 102(e). In particular, this is evident from the previous office actions in this case where the Examiner identified Jou as 102(e) prior art. But for completeness, Jou issued as a patent on November 12, 2002 from a patent application filed July 21, 1999. Jou was not published prior to issuing as a patent. The present application was filed on January 16, 2001, over 6 months prior to Jou issued as a patent. Thus, Jou only qualifies as prior art under the provisions of 102(e) and does not qualify under either 102(a) or 102(b). Thus, under section 103(c)(1), Jou cannot be used to preclude patentability if both Jou and the present application are commonly owned or were subject to an obligation of assignment.

In this case, both Jou and the present application are owned by Qualcomm, Inc. The assignment of Jou to Qualcomm, Inc. is recorded at Reel/Frame 010124/0198. The assignment of the present application to Qualcomm, Inc. is recorded at Reel/Frame 011714/0821. As the reference and present application are commonly owned, Jou cannot be used to preclude the patenting of the present application.

As Jou is no longer a valid reference, the Examiner is respectfully requested to withdraw the pending rejection and allow claims 1-4, 6-9, 11-15, 17-20, 22-27, 29, 30, and 32.

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**CONCLUSION**

In view of the foregoing, Applicant respectfully requests that the Examiner reconsider the outstanding rejections and that these rejections be withdrawn. It is believed that a complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is invited to telephone the undersigned at the number provided.

Applicant therefore respectfully requests that a timely Notice of Allowance be issued in this case.

If there are any fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: July 5, 2006

Respectfully submitted,

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